

R. R. asks the Utah Labor Commission to review Administrative Law Judge Eblen's decision with respect to the amount of disability compensation and interest due Mr. R. under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).¹

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

BACKGROUND AND ISSUES PRESENTED

Among its other provisions, Judge Eblen's decision of November 5, 2003, ordered the Employers' Reinsurance Fund ("ERF") to pay permanent total disability compensation at the rate of \$167 per week for the period of May 30, 2001, through October 30, 2003, such compensation to be paid in a lump sum but without interest.

In his motion for review, Mr. R. contends the weekly amount of his compensation after May 10, 2002, should be increased to the minimum amount established by §34A-2-413 of the Act. Mr. R. also contends ERF should pay interest on compensation payments made for previous time periods.

FINDINGS OF FACT

The underlying facts of this case are not in dispute. The Commission therefore adopts the findings of fact set forth in Judge Eblen's decision.

DISCUSSION AND CONCLUSION OF LAW

The Commission notes that neither the ERF nor any of the other parties to this proceeding have opposed Mr. R.'s motion for review. In the absence of any argument to the contrary, the Commission accepts Mr. R.'s contention that after May 9, 2002, the amount of his weekly compensation should reflect the minimum amount established by §34A-2-413(2)(c) and that interest is payable by ERF on any compensation paid for past periods of time, pursuant to §34A-2-420(3). Judge Eblen's order will be amended accordingly.

ORDER

The Commission grants Mr. R.'s motion for review and modifies the provisions of Judge Eblen's order as follows.

Paragraph three of the order (found at pages 12 and 13 of Judge Eblen's decision) is modified as follows:

The ERF shall pay Ralph R. permanent total disability compensation at the rate of \$167 per week from May 30, 2001 through May 9, 2002, in a lump sum of \$8,232.42, plus interest at 8% per annum from the date each installment

was due until paid.

Paragraph four of the order (found at page 13 of Judge Eblen's decision) is modified as follows:

The ERF shall pay Ralph R. permanent total disability compensation beginning on May 10, 2002 and continuing until his death. The weekly amount of such payments shall be the minimum amount established by §34A-2-413(2)(c) of the Act. Any such compensation accrued but unpaid as of July 1, 2004, shall be paid in a lump sum, plus interest at 8% per annum from the date each installment was due until paid.

Dated this 29th day of June, 2004.

R. Lee Ellertson, Commissioner

1. Joy Manufacturing and its insurance carrier, ACE USA, also filed a motion for review in this matter. However, pursuant to stipulation and settlement by some of the parties, Joy has withdrawn its motion for review.